



Via mail and email

November 12, 2021

William M. Paul
Acting Chief Counsel
Office of the Chief Counsel
Internal Revenue Service
1111 Constitution Avenue
Washington, DC 20224

Dear Mr. Paul:

We, the undersigned organizations, write to ask you to clarify that the holders and servicers of federal and private student loans, in cases where a borrower's loan obligation is discharged as per Section 108(f)(5) of the Internal Revenue Code, are not required to issue IRS Form 1099-C for tax years 2021-2025. Our collective memberships include the servicers of almost all loans originated under the Higher Education Act, and the servicers of most private education loans.

The Section 9675 of the American Rescue Plan Act (Public Law 117-2) amended the Internal Revenue Code's requirements for tax treatment of student loan forgiveness. Prior to the amendment, subject to certain exceptions and certain federal discharge programs, only discharges of student loans because of death or disability were excluded from gross income for tax purposes. The Act added a new Section 108(f)(5) of the Code pursuant to which, for the 2021-2025 tax years, any amount which would otherwise be includible in income by reason of the discharge (in whole or in part) of certain student loans is excluded from gross income. Student loans that are covered by this provision include: (i) any loan provided expressly for postsecondary educational expenses that was made, insured, or guaranteed by the United States (or an instrumentality thereof), a State (or political subdivision thereof), or an educational institution; (ii) a private educational loan (as defined in section 140(a)(7) of the Truth in Lending Act); and (iii) certain loans made by educational organizations.

Despite the statutory changes to Section 108 of the Code, neither Section 6050P of the Code (which generally requires information reporting on Form 1099-C in respect of such discharges), nor Form 1099-C appears to have been updated and current IRS guidance still generally requires the issuance of 1099-C statements. In fact, the only exception for student loans listed on the Instructions for Form 1099-C is for student loan indebtedness discharged due to the student's death or permanent and total disability. A concern has been raised that the issuance of 1099-Cs in respect of forgiven student loans during the 2021-2025 tax years seems unnecessary and, in fact, would cause confusion - incorrectly signaling to borrowers and their tax preparers that the forgiven amount is to be included in the borrower's gross income when calculating their taxes for the tax year.

We are informed that the Department of Education, which holds around 80 percent of all outstanding student loans, has directed its contract servicers not to file Form 1099-Cs in cases where serviced federally-owned loans are forgiven. While

this offers some comfort to the servicers, the stakes and risks are higher for those servicing loans made under the Higher Education Act that are not held by the Department of Education (including loans made under the legacy Federal Family Education Loan Program) and private education loans, even though those loans clearly are covered by the relief granted by the new Section 108(f)(5).

We ask that the Internal Revenue Service clarify that holders of student loans covered by the new statute and their servicers are not required to file a 1099-C. This could be accomplished through an announcement or a revision to the instructions to Form 1099-C. Given the increased pressure to forgive student loans, a large number of individual taxpayers may have a full or partial indebtedness discharge in 2021. Confirmation that it is not necessary to send these individuals the current form statement should be received as soon as possible to avoid widespread confusion resulting from the outdated description of the potential effect of such discharge upon their 2021 tax year taxable income.

Thank you for your attention to this important issue. Our organizations and members look forward to continuing to work with the Service to provide relief to student loan borrowers in appropriate case. If you have any questions, please do not hesitate to reach out to any of us. You can contact Gail daMota at EFC (gaild@efc.org; 202-552-8505); James Bergeron at NCHER (jbergeron@ncher.org; 202-360-8000) and Scott Buchanan at SLSA (scott.buchanan@slsa.net; 202-262-8348). Bob Moran is CBA's contact on this matter (rmoran@bosepublicaffairs.com ; 202-539-6488).

Sincerely,

Consumer Bankers Association (CBA)
Education Finance Council (EFC)
National Council of Education Resources (NCHER)
Student Loan Servicing Alliance (SLSA)